

# Notice of Allowability

## Application No.

10/050,593

## Applicant(s)

KING ET AL.

## Examiner

David A. Lambertson

## Art Unit

1636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--  
claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included  
reewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS  
NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative  
the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

☒ This communication is responsive to the response filed 20 September 2004.

☒ The allowed claim(s) is/are 1-8,11-14,19-24,27-29,32-35 and 37-40.

☒ The drawings filed on 16 January 2002 are accepted by the Examiner.

☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some\* c) ☐ None of the:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the  
International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements  
noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF  
INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.

(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.

(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of  
Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of  
each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the  
attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

☐ Notice of References Cited (PTO-892)

☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_

☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material

5. ☐ Notice of Informal Patent Application (PTO-152)

6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.

7. ☒ Examiner's Amendment/Comment

8. ☐ Examiner's Statement of Reasons for Allowance

9. ☐ Other \_\_\_\_\_.

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Robert Jondle on November 1, 2004.

The application has been amended as follows:

Please cancel claims 9, 10, 16-18 and 31.

Please make the following claim amendment:

1. A method for enhancing nodulation of nodulating leguminous plants, wherein said plant displays resistance or tolerance to glyphosate herbicide, comprising:
  - a) growing said plant in the field in the presence of a rhizobial strain wherein said rhizobial strain comprises resistance to said glyphosate herbicide; and
  - b) applying said glyphosate herbicide to said leguminous plant or seeds of said plant, whereby nodulation by the desired strain that expresses resistance or tolerance to glyphosate ~~and~~ is enhanced compared to nodulation by a strain that is not resistant to the herbicide glyphosate.

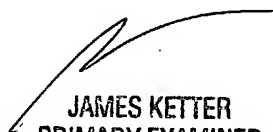
Art Unit: 1636

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Lambertson whose telephone number is (571) 272-0771. The examiner can normally be reached on 6:30am to 4pm, Mon.-Fri., first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Remy Yucel, Ph.D. can be reached on (571) 272-0781. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David A. Lambertson, Ph.D.  
AU 1636

  
JAMES KETTER  
PRIMARY EXAMINER